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§ 80.835 What requirements apply to butane blenders?

Butane blenders who blend butane into gasoline downstream of the refinery that produced the gasoline or the import facility where the gasoline was imported are not subject to the requirements of this subpart applicable to refiners for this gasoline.

§ 80.840 What requirements apply to transmix processors?

Any transmix processor who produces gasoline or gasoline blendstock from transmix, or recovers gasoline or gasoline blendstock from transmix through transmix processing under § 80.84 (c) shall include such gasoline or gasoline blendstock in the baseline and compliance calculations of this subpart to the same extent such gasoline or gasoline blendstock must be included in compliance calculations under subpart D of this part for reformulated gasoline and RBOB, and under subpart E of this part for conventional gasoline, according to the requirements specified in § 80.84(c).

[71 FR 31964, June 2, 2006]

§ 80.845 What requirements apply to California gasoline?

(a) *Definition.* For purposes of this subpart "California gasoline" means any gasoline designated by the refiner or importer as for use in California.

(b) *California gasoline exemption.* California gasoline that complies with all the requirements of this section is exempt from all other provisions of this subpart.

(c) *Requirements for California gasoline.* (1) Each batch of California gasoline shall be designated as such by its refiner or importer.

(2) [Reserved]

(3) Designated California gasoline must ultimately be used in the State of California and not used elsewhere.

(4) In the case of California gasoline produced outside the State of California, the transferors and transferees shall meet the product transfer document requirements under § 80.81(g).

(5) Gasoline that is ultimately used in any part of the United States outside of the State of California shall comply with the standards and require-

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ments of this subpart, regardless of any designation as California gasoline.

§ 80.850 How is the compliance baseline determined?

(a) The compliance baseline to which annual average toxics values are compared according to § 80.815(a) is calculated according to the following equation:

$$T_{CBase} = \frac{T_{Base} \times V_{Base} + T_{Exist} \times V_{inc}}{V_{Base} + V_{inc}}$$

Where:

T_{CBase} = Compliance baseline toxics value.

T_{Base} = Baseline toxics value for the refinery or importer, calculated according to § 80.915(b)(1).

V_{Base} = Baseline volume for the refinery or importer, calculated according to § 80.915(b)(2).

T_{Exist} = Existing toxics standard, per paragraph (b) of this section.

V_{inc} = Volume of gasoline produced during the averaging period in excess of V_{Base} .

(b) The value of existing toxics standard, T_{Exist} , is equal to:

(1) 21.5 percent, for reformulated gasoline and RBOB, combined;

(2) The refinery's or importer's antidumping compliance baseline value for exhaust toxics, in mg/mi, per § 80.101(f), for conventional gasoline.

(c) If the refinery or importer produced less gasoline during the compliance period than its baseline volume V_{Base} , the value of V_{inc} will be zero.

§ 80.855 What is the compliance baseline for refineries or importers with insufficient data?

(a) A refinery or importer shall use the methodology specified in this section for determining a compliance baseline if it cannot determine an applicable toxics value for every batch of gasoline produced or imported for 12 or more consecutive months during January 1, 1998 through December 31, 2000.

(b)(1) A refinery or importer that cannot determine an applicable toxics value on every batch of gasoline produced or imported for 12 or more consecutive months during the period January 1, 1998 through December 31, 2000 or a refinery or importer that did not produce or import reformulated gasoline and/or RBOB (combined) or conventional gasoline or both during the

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period between January 1, 1998 and December 31, 2000, inclusive, shall have the following as its compliance baseline for the purposes of this subpart:

(i) For conventional gasoline, prior to January 1, 2006, 94.64 mg/mile; starting January 1, 2006, 97.38 mg/mile.

(ii) For reformulated gasoline, prior to January 1, 2006, 25.31 percent reduction from statutory baseline; starting January 1, 2006, 26.78 percent reduction from statutory baseline.

(2) [Reserved]

(c)(1) *Eligibility to petition.* A refiner who has been granted an alternative anti-dumping averaging period under § 80.101(k) may petition the Administrator to have the statutory baseline exhaust toxics emissions, Phase II value specified in § 80.91(c)(5)(iv) as its compliance baseline for the purposes of this subpart J for one or more of the years of the refiner's approved alternative anti-dumping averaging period.

(2) *Application process.* Applications must be submitted to the Administrator by January 1, 2004 to the following address: U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (certified mail/return receipt) or U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), Transportation & Regional Programs Division, 501 3rd Street, NW., Washington, DC 20001 (express mail/return receipt).

(3) *Contents of the application petition.* Each petition must include:

(i) A copy of the refinery's approval for an alternative averaging period under section 80.101(k).

(ii) A description of the hardships that make it infeasible, on a cost and/or technological basis, for the refinery to comply with the compliance baseline specified in paragraph (b) of this section.

(iii) A quarterly timeline, from the date of the application, indicating the expected exhaust toxics emissions performance of the refinery's conventional gasoline, and the reasons for any expected non-compliance with the compliance baseline specified in paragraph (b) of this section (for example, a particular gasoline blendstock-producing unit not yet installed). The timeline shall include the date by which the re-

finery will produce conventional gasoline that complies with the baseline specified in paragraph (b) of this section on an annual average basis.

(4) *Approval or disapproval of petitions.*

(i) The Administrator may approve a petition if it includes information sufficient to demonstrate to the Administrator's satisfaction that cost and/or technological constraints make it infeasible for the refinery to comply with the baseline specified in paragraph (b) of this section. The Administrator will approve or deny a petition in writing within six months of receipt.

(ii)(A) Each approval will specify the date by which the refinery must comply with the baseline specified in paragraph (b) of this section. No petition approval shall allow for use of the statutory baseline exhaust toxics emissions, Phase II value as a refinery's compliance baseline under this subpart J beyond the last day of a refinery's alternative anti-dumping averaging period under § 80.101(k) or § 80.101(l).

(B) An approval may include any conditions or other requirements to which the approval is subject.

(5) *Effective date for petition.* (i) Beginning with the averaging period immediately following the end of the approved period under paragraph (c)(4) of this section, the compliance baseline for the purposes of this subpart J shall be as specified in paragraph (b) of this section.

(ii) Notwithstanding the requirement specified in paragraph (c)(5)(i) of this section, if at any time the alternative compliance period approved under § 80.101(k) or § 80.101(l) ceases to apply, the approval granted under this paragraph (c) shall also cease to apply.

[68 FR 24309, May 6, 2003, as amended at 70 FR 58335, Oct. 6, 2005]

§§ 80.860–80.905 [Reserved]

BASELINE DETERMINATION

§ 80.910 How does a refiner or importer apply for a toxics baseline?

(a) A refiner or importer shall submit an application to EPA which includes the information required under paragraph (c) of this section no later than June 30, 2001 or 3 months prior to the